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UNCLAS SECTION 01 OF 02 PORT AU PRINCE 000474

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SUBJECT: HAITI SENATE ELECTIONS: APPEALS GRIND ON; ONE CANDIDATE MAY AVOID RUN-OFF

REF: A. PORT AU PRINCE 447
1B. PORT AU PRINCE 419

¶1. (SBU) Summary. The appeals process following the April 19 Senate elections grind on, with departmental appeals bureaus dismissing the great majority. Out of eighteen cases filed to contest Senate election results, only one case thus far has been decided in the candidate's favor, giving the Lespwa candidate in the North Department an absolute majority, and making him the only Senate candidate to avoid a second round run-off. Other contested cases, mostly involving claims of fraud, have been dismissed outright, referred for additional investigation, or have been transmitted to the National Elections Appeals Bureau (BCEN) for final decision. The Provisional Electoral Council (CEP) says it has set up a body to investigate violence that led to the suspension of voting in the Center Department. The CEP has tentatively postponed the second round until June 21, and not set a date yet for re-holding the vote in the Center Department. End summary.

¶2. (SBU) After official results were announced April 29 for the nine regions that took part in partial Senate elections held April 19, various candidates filed eighteen cases contesting election results with their respective Department Bureaus of Electoral Appeals (BCED). Center Department elections were called off on election day due to incidents of violence and ballot theft (Ref A). The CEP has yet to set a date to hold these elections again, although it will probably come after the second round of voting in the other Departments. It has set up a committee to investigate the incidents that led to a halt in the voting. BCEDs heard appeals in the Nippes, North East, North West and South Departments May 3-4 and dismissed them due to lack of evidence. No one filed appeals in the South East Department.

¶3. (SBU) Only one appeal thus far has overturned an initial result: the Department Appeals Bureau in the North Department found that Lespwa candidate Moise Jean-Charles received the minimum 50 percent plus 1 required to avoid a run-off. Jean-Charles, who won 49.49 percent in the initial vote count, is a controversial former Fanmi Lavalas activist and mayor of the northern town of Milot suspected of involvement in political violence before former President Aristide's departure. Fusion party partisans denounced the BCED's decision to dismiss Fusion (North) candidate Marie Ghislaine Mompemier's case claiming election fraud against Jean-Charles. Mompemier vowed to take her case to the National Bureau of Electoral Contests (BCEN). (Note: Election disputes are initially filed and heard by the Department-based BCEDs with recourse to the BCEN. Decisions of the BCEN are final with no further recourse, as provided in Article 191 of the Electoral Law. End note)

¶4. (SBU) In the West Department -- Haiti's most populous region, which also includes the capital -- the BCED ruled it had no jurisdiction to hear cases brought by third place Fusion/West candidate Marie Denise Claude and fifth place Party of National Unity (PUN/West) candidate David Basile, deciding instead to forward the cases to the BCEN for final decision. Claude and Basile filed protests charging the Lespwa (West) front-runner, Joseph Joel John, with election fraud, especially in the Cite Soleil neighborhood. John won 29 percent of the votes on April 19. Marie Denise Claude claimed publicly on May 11 there had definitely been fraud in some polling stations, since some of them had shown more than 70 percent turnout, in a department with less than 3 percent overall turnout. Fusion spokesman Micha Gaillard the same day claimed that polling station workers, prosecutors, and CEP councilors were conspiring in several Departments to "steer" the election count in favor of Lespwa and UCADDE, a party close to President Preval.

¶5. (SBI) BCED hearings for cases filed in the Artibonite Department were held May 5, resulting in the nullification of votes in the towns of Verettes and Petite Riviere du Nord -- areas where rock-throwing and threats to polling stations prompted the early closure of some voting centers (Ref B). The case brought to the Artibonite BCED by Ayiti An Aksyon/Haiti in Action's second-place candidate Jean Willy Jean Baptiste is under investigation. Sixth place Lespwa candidate Rigaud Saint Pierre's protest was referred to the BCEN for final adjudication.

¶6. (SBU) The May 6 hearing for a case brought by the political party Citizens' Gathering for Hope (RESPE/Grand

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Anse) candidate Frederick Jean Lavaud was dismissed. However, the Grand Anse BCED referred to the BCEN the decision whether to re-do elections at one voting center (Les Icaques), where Lavaud alleged election impropriety.

¶7. (U) Provisional Electoral Council (CEP) Director General Pierre-Louis Opont announced the week of May 4 that the second-round of elections would be postponed from June 7 to June 21. Elections for the Center Department are tentatively set for June 28. These dates remain tentative until President Preval issues a Presidential decree formally announcing the date. Opont said that a delay in the second round was necessary in order to address problems with the electoral lists and assignment of citizens to voting centers.
SANDERSON